IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7042 OF 2005

Prabhakar Manilal Patil ..Petitioner.

Versus

The Election Officer/Returning Officer and others ..Respondents.

Mr. Anilkumar Patil for the Petitioner.
Mr. D.A. Pati, AGP for the Respondent Nos. 1 to 4.
Mr. R.V.More for the respondent No.5.

CORAM : S. A. BOBDE, J.
DATED : 17TH OCTOBER, 2005.

P.C.:

1. Rule returnable forthwith. Mr. Patil, AGP for the respondent Nos. 1 to 4 and Mr. More, Advocate for respondent No.5 appear and waive service of rule. Heard by consent.

2. The petitioner has challenged the rejection of his nomination paper for elections to the post of a member of the respondent No.6 -Village Panchayat -Dapode. The petitioner has not been able to annex a certified copy of the order, rejecting his nomination paper. This practice of not furnishing certified copies must be discouraged since disables the fora established by law from entertaining any proceedings.

2. However, I see no reason to interfere in this matter in view of the settled position in law that the rejection or acceptance of nomination paper, forms a part of an election and that in view of the bar created by section 15 of the Bombay Village Panchayats Act, the only remedy available is to challenge the decision of the Returning Officer by way of an election petition as has been held by the Division Bench of this Court in Kalpana Ananda Sutar vs. State of Maharastra, reported in 1998 (2) Mh.L.J.626. This decision is rendered under the Bombay Village Panchayat Act itself from which the present petition arises.

3. The learned counsel for the petitioner also relied on the decision of a Division Bench of this Court in the case of Anant Janardhan Patil vs. State of Maharashtra and Ors., reported in 2002 (4) Bom. C.R. 270, to which I am a party, where this court took the view that the petitioner in that case should not be relegated to the remedy under the Act. That decision was arrived at in view of the peculiar facts of that case, where the petitioner had been declared elected un-opposed in pursuance of the interim order of this court. That decision is not applicable to the

present case. In this view of the matter, I see no merit in the challenge.

4. The Supreme Court has also reiterated the earlier view that was taken in the case of Sant Sadjuru Janardhan Swami's case, reported in 2002(1) Mh. L.J. page 659. However, the subsequent decisions in Ahmednagar Zilla S.D.V. and P. Sangh Ltd., vs. State of Maharashtra & Ors. reported in 2004 (1) S.C.C. 133 and the decision in Pundlik vs. State of Maharashtra, reported in 2005(4) Mh. L.J. 254 are different and arose in a different context which is not applicable to the present case.

5. In this view of the matter, this petition is dismissed. Rule is disposed of in the above terms.

DT. 17.10.05 (S.A.BOBDE,J)

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